

Darshan Singh vs State of Punjab & Anr., AIR 2010 SC 1212

1. Self-preservation is the basic human instinct and is duly recognized by the criminal jurisprudence of all civilized countries. All free, democratic and civilized countries recognize the right of private defence within certain reasonable limits.
2. The right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger and not of self-creation.
3. A mere reasonable apprehension is enough to put the right of self defence into operation. In other words, it is not necessary that there should be an actual commission of the offence in order to give rise to the right of private defence. It is enough if the accused apprehended that such an offence is contemplated and it is likely to be committed if the right of private defence is not exercised.
4. The right of private defence commences as soon as a reasonable apprehension arises and it is co-terminus with the duration of such apprehension.
5. It is unrealistic to expect a person under assault to modulate his defence step by step with any arithmetical exactitude.
6. In private defence the force used by the accused ought not to be wholly disproportionate or much greater than necessary for protection of the person or property.
7. It is well settled that even if the accused does not plead self-defence, it is open to consider such a plea if the same arises from the material on record.
8. The accused need not prove the existence of the right of private defence beyond reasonable doubt.
9. The Indian Penal Code confers the right of private defence only when that unlawful or wrongful act is an offence.
10. A person who is in imminent and reasonable danger of losing his life or limb may in exercise of self defence inflict any harm even extending to death on his assailant either when the assault is attempted or directly threatened.